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C O N F I D E N T I A L SECTION 01 OF 04 KABUL 003943

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SUBJECT: PRT KHOST:KUCHI AGREEMENT STOPS VIOLENCE, BUT  
SIDESTEPS CORE SETTLEMENT ISSUE

REF: KABUL 3220

Classified By: Political Counselor Sara Rosenberry for reasons 1.4 (B)  
and (D).

¶1. (C) Summary. Provincial leaders are pleased with a July 31 agreement ending a violent land dispute between the Kuchi and Baker Khel tribes in Khost's Bak District. Although they have reason to celebrate the cooperation among traditional, provincial, and GOA leaders to broker the agreement, it is an agreement the Kuchis felt bullied into signing by every tribe in the province under the threat of jailing its leaders. There has been no violence since the agreement was signed. However, the potential for conflict remains; most of the Kuchis have not moved despite the August 14 deadline, claiming alternate locations are already full. Most provincial officials, with the notable exception of incoming Governor Arsala Jamal, continue to assert Kuchis are nomads and have no legitimate claim to permanent settlement. Officials seem largely content to ignore the Kuchi settlement issue pending development of a national strategy by the federal Kuchi Commission. End Summary.

Kuchi-Baker Khel Agreement Returns From Kabul  
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¶2. (U) The Federal Kuchi Commission endorsed and distributed official copies in mid-August of the July 31 agreement settling a Bak District land dispute between the Kuchi and Baker Khel tribes. The agreement stipulates the Kuchis will leave the disputed Gurgari area for seasonal camps in Scharai and Zaramela (article 2). The Bak Kuchis (Ashgar Khel subtribe of the Naizai Kuchis) are allowed to stay in the alternative locations for six months a year (article 3) in accordance with their nomadic way of life (article 1). The agreement was read to affected parties at a 300-person gathering in Khost City July 31, signed, and sent to Kabul.

13. (U) Governor Arsala Jamal explained to PRTOff August 13 the Kuchi Commission's delay was due to contentious provisions of the agreement, such as the site location of a new graveyard, as the agreement bans the Kuchis from burying their dead at the cemetery in the disputed area. The Baker Khel tribe is afraid the Kuchis will use the cemetery to argue their right to the surrounding land, a tactic historically used by tribes to assert ownership. Fighting over the cemetery turned violent in April, resulting in four deaths (there were also three Kuchi and as many as 15 Baker Khel deaths in July). The final agreement side-steps the issue by granting the agreement's provincial oversight committee authority to find a new cemetery location for the Kuchis (article 6). Although Kuchis have grazed the area for generations, they started establishing a permanent settlement last summer and burying their dead there in early 2006.

#### Lasting or Stop-Gap Solution?

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14. (C) Jamal asserted the July 31 Agreement would be a permanent solution for the Bak Kuchis in all respects except determining compensation for loss of life and property during the fighting. Compensation would be determined after one year (article 9). He added, however, that a permanent, national solution needs to be developed by the Kuchi Commission to deal with settlement of the traditionally nomadic Kuchis. Provincial officials commonly use development of a federal solution to justify provincial inaction regarding Kuchi settlement, fearing the tiny province will otherwise absorb a disproportionate number of

KABUL 00003943 002 OF 004

the settling nomads. Jamal said neither side of the Kuchi/Baker Khel conflict was pleased with the outcome, proof that it was a true compromise.

15. (C) Outgoing Bak District Commissioner Rahim Jan, in contrast, said the Baker Khel were pleased because they &have gotten everything they wanted.8 He added the Kuchis were &obliged to accept the agreement8 with the entire province united against them. GOA and Kuchi leaders verified there has been no post-agreement violence as of August 24. Newly reinstalled District Commissioner Hussin Jan Sherzai told PRTOff August 24 this was due to the heavy 50,000 Afghani collateral in cash or property (guns, vehicles, etc.) at risk from both sides should they instigate violence. (Note: Confusion reigns: Article 8 original version stipulates 2 million Afghanis or about \$40,000 from both sides; the official version states 10 million Afghani, or about \$200,000 each. End Note.) Sherzai contended the Baker Khel wanted the Kuchis out of Bak District entirely and the Kuchis should be happy they are allowed to stay six months in the old locations. He added the Kuchis &will have to be happy8 with the agreement and &very happy8 Baker Khel tribesmen routinely come to the District Center to show their gratitude.

#### Precedent Agreement in Theory and Practice

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16. (C) Kuchis are required to dismantle their homes (Article 7), but there is no time table for withdrawal or when the GOA will demolish the structures. Although the agreement requires both sides to relinquish high-ground fighting positions (article 5), plans to disarm both sides of heavy weapons have been abandoned, according to Jan. Sherzai asserted about 45-60 families had moved, with about 300 remaining in Gurgari. (Note: These are highly politicized estimates. Ex-Governor Pathan claimed only about 200 Kuchi families lived in the area. Alternatively, the Kuchis claim 400 Kuchi families had moved and 1,500 remained in Gurgari. The maneuver battalion in Khost estimates 3,000 to 4,000 total Kuchis in the area, down from 5,000 to 6,000 before fighting broke out. End Note). Sherzai said the August 14

deadline to move had been extended due to Kuchi excuses based on lack of logistical support and lack of room at the alternative locations. He optimistically hoped the remaining Kuchis would be moved August 26, when the 15-member provincial agreement-oversight committee came to the area, as they have about once or a week since the agreement was signed. However, Kuchi elders told PRTOff August 24 the alternative sites were full and they were waiting on the commission to identify other locations. Otherwise, they hoped to stay here over the winter.

Kuchis Disagree with Agreement: We Are Not Nomads

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17. (U) Bak Kuchi Elder Nadir Khan said he and the six other Kuchi representatives that signed the July 31 agreement were coerced into supporting it. He added that main Bak Kuchi leader Gulam Khan and other elders did not sign the document.

After hearing the contents of the agreement at the July 31 meeting, he claimed he rose and shouted this is not fair.

Then the Provincial Police Commander grabbed his arm and told him to sign or go to jail. Khan and other Bak Kuchi leaders said they could not resist the collective pressure from every tribe in the province, the federal Kuchi Commission, Provincial Council, and provincial shuras. Khan said despite promises for a future Kabul-based solution, the Gurgari dispute would not likely be revisited. Kuchi elders

KABUL 00003943 003 OF 004

are trying a last-ditch effort to plead their case with President Karzai, but if he does not help, we will have to find a place to stay. We are not nomads. Kuchi elders claim 100 percent of the Gurgari-area Kuchis want to settle.

Provincial Leadership: Mission Accomplished

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18. (C) Provincial authorities characterize the agreement as significant victory for provincial leadership in general and the Provincial Council (PC) and Director of Tribal Affairs in particular, who led cease-fire and agreement talks (ref). Although they only grudgingly share credit with federal Kuchi Commission, Bak Kuchis cite the commission's involvement as a vital component in their decision to lay down arms. Kuchis repeatedly told PRTOff they will only recognize national authority, as they perceive any provincial decision as inherently unfair. Kuchi elders add they would consider moving to other provinces as part of a national settlement plan.

19. (C) PC leaders disputed Kuchis were forced into the agreement, though they conceded there was little difference between the agreement and the controversial April conclusion of a provincial committee. Vice-Chairman Taj Ali said despite initial Kuchi resistance, the PC managed to convince them to support it because it ensured nomadic rights to grazing land, establishment of a new cemetery, protection from Baker Khel attacks, and 30 plots in the official returnee camp outside of Khost City. Ali later admitted the allocation of plots was an oral promise from ex-Governor Pathan that is not in the agreement.

New Governor May Mean New Approach

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10. (C) In contrast to collective provincial leader opinion, Gov. Jamal acknowledged trying to force Kuchis back into a nomadic life was no solution. He said Kuchis that have lived in Pakistani refugee camps for 25 years had lost the livestock and skills to return to a nomadic lifestyle. Jamal is urging expedited development of a long-term, national plan to settle Kuchis by the Kuchi Commission and efforts to identify and mitigate potential conflicts before fighting breaks out. He said although some would undoubtedly be settled in Khost, a disproportionate number of Kuchis have flocked to the province to take advantage of rising land

values. Jamal said in other provinces Kuchis were integrating more or less smoothly into urban centers, but this approach would not work in Khost due to the sheer size of Kuchi populations. He was intrigued by the suggestion of opening up plots to resettle Kuchis in a proposed returnee camp in Tere Zayi district ahead of a national plan, but made no commitments.

Bak Decision as Precedent Pending National Plan  
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¶11. (C) Both provincial and Kuchi leaders agree the Bak situation and resultant agreement are precedents. Bak Kuchis told PRTOff August 24, although there are simmering arguments in other provinces, none have escalated to the open warfare nor required a Kuchi Commission-facilitated agreement. Deputy Governor Ajab Khan Sangeen told PRTOff a national solution would be slow coming and could be too late to prevent fighting in other provinces, such as Nangahar and Logar. In contrast, Governor Jamal said the Kuchi Commission was working on the details of a draft national strategy, which would be unveiled & soon.8 He said Kabul wants to

KABUL 00003943 004 OF 004

keep the draft's progress out of the headlines to reduce volatile, perhaps violent, reactions from perceived winners and losers ahead of its official release.

¶12. (C) Comment: The good news is the agreement stopped fighting and demonstrated encouraging cooperation between traditional tribal and GOA leadership; the bad news it is not really an agreement, as it is clearly being imposed on the Kuchis, and only kicks the ultimate problem of Kuchi settlement further down the road. PC members struggled with good reason to identify advantages in the agreement for Kuchis. The agreement largely formalizes existing grazing agreements and security assurances are a red herring, as moving the Kuchis removes the primary reason for Baker Khel attacks.

¶13. (C) Although there is merit to developing a national settlement strategy for Kuchis who are ill-prepared and uninterested in resuming a nomadic lifestyle, it is also a convenient excuse for inaction on the provincial level. Despite political sensitivities, we should encourage provincial leaders to look creatively at the Kuchi issue, particularly in the context of the larger refugee returnee issue. Providing provincial leaders with resources to provide incentives to settled tribes to accept a Kuchi settlement, or, more likely, inclusion of Kuchis in mixed-tribe returnee camps, would be necessary to reach a long term solution.

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